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 Software AG, Inc. and Software AG

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

CONSIST SOFTWARE SOLUTIONS,  
 INC. f/k/a CONSIST INTERNATIONAL,  
 INC.,

Plaintiff,

-against-

SOFTWARE AG, INC. and SOFTWARE  
 AG,

Defendants.

Case No. 07-cv-7047 (CM)(FM)

DEFENDANTS SOFTWARE AG, INC. AND  
 SOFTWARE AG'S OBJECTIONS TO  
 PLAINTIFF'S EXHIBITS

Defendants Software AG, Inc. and Software AG object to Plaintiff's Exhibits as follows:

Ex. #	Description	Date	Objection
PX 1	Distributorship Agreement - January 1, 1998	1/1/1998	
PX 2	Signed Distributorship Agreement - February, 1995	2/28/1995	
PX 3	Letter from K. Streibich to N. Fridman, RE: Distributorship Agreement	3/30/2006	
PX 4	Letter from H. Mayo to N. Fridman, RE: Consist-Software AG Distributorship Agreement Notice of Termination	4/6/2006	
PX 5	Email from K. Streibich to N. Fridman, RE: Cooperation Agreement	7/4/2006	

Ex. #	Description	Date	Objection
PX 6	Letter from H. Schaffer to Software AG, RE: January 1, 1998 Agreement	7/28/2006	
PX 7	Letter from H. Schaffer to Software AG	8/11/2006	
PX 8	Letter from P. Church to H. Schaffer	8/16/2006	
PX 9	Letter from H. Schaffer to P. Church	9/11/2006	
PX 10	SAG Report 1/23/07	1/23/2007	
PX 11	Email from T. Williams to N. Fridman, RE: Attunity	1/10/2002	
PX 12	SAG Web page – Press Release: Software AG expands in high-growth Latin America	5/19/2006	
PX 13	SAG Web pages from various South American countries	N/A	
PX 14	SAG Web page	N/A	
PX 15	Email from N. Fridman to K. Streibich, RE: It was a pleasure to meet with you last week	5/31/2007	
PX 16	Email from K. Streibich to N. Fridman, RE: your mail	6/5/2007	
PX 17	Article from Que Pasa News: "Lagos condemns 'lies' from Chilean newspaper"	9/21/2005	
PX 18	Distributorship Agreement - January, 1995	1/1/1995	
PX 19	Letter from H. Schaffer to J. Jacobs - rejecting letters purported to be default notices on the grounds they were not properly served	11/2/2007	
PX 20	Email from L. Kibblewhite to N. Fridman, RE: Third Party Obligations on Software AG Products	4/14/2003	
PX 21	Email from L. Kibblewhite to N. Fridman, G. Fandino, RE: Updated "Special Products" List	8/3/2004	
PX 22	Email from L. Kibblewhite to N. Fridman, RE: Upcoming product releases w/ third party obligations	11/1/2005	
PX 23	Letter from L. Kibblewhite to N.	4/18/2005	

Ex. #	Description	Date	Objection
	Fridman, enclosing Updated "Special Products" List		
PX 24	Email from L. Kibblewhite to N. Fridman, enclosing updated "Special Products" List	4/19/2005	
PX 25	Letter from K. Butler to N. Fridman, enclosing documents that refer to annex B of the Distributorship Agreement	8/17/2006	
PX 26	Letter from L. Kibblewhite to N. Fridman, enclosing Updated "Special Products" List	3/26/2007	
PX 27	Letter from C. Barrios to N. Fridman, enclosing sub-distribution contract	9/6/2005	
PX 28	Email from K. Streibich to N. Fridman, RE: Our Partnership	8/22/2006	
PX 29	Letter from N. Fridman to K. Streibich, RE: analysis of royalty payments, suggestion of new Agreement	9/30/2005	
PX 30	Email exchange between K. Streibich and N. Fridman, RE: SAG's offer to buy Consist	5/24/2006	
PX 31	Letter from P. Schnell to N. Fridman asking for '91 Customer List and '92 Quarterly Reports	7/13/1992	
PX 32	Letter from P. Kuperman to N. Fridman, RE: Quarterly Reports	3/21/1994	
PX 33	Letter from P. Kuperman to N. Fridman, enclosing summary of "our meeting of last week"	7/5/1994	
PX 34	FAX from P. McMullen to N. Fridman RE: Install Reports	7/12/1994	
PX 35	FAX from J. Gerencser to N. Fridman, RE: Missing Reports	7/25/1994	
PX 36	FAX from P. Kuperman to N. Fridman, RE: Notice of Termination of Distributorship Agreements	9/2/1994	
PX 37	Letter from N. Fridman to M. King, RE: "let us know of any information still	9/5/1994	

Ex. #	Description	Date	Objection
	outstanding"		
PX 38	Letter from M. King to N. Fridman, RE: Extension of Distributorship Agreement through January 31, 1995	12/21/1994	
PX 39	Document Production JHS 0001 - 0117	Various	
PX 40	Letter from J. Daly to N. Fridman, enclosing proposal for new Consist Distributorship Agreement	8/4/1997	
PX 41	FAX from J. Daly to N. Fridman, explaining some points contained the attached Distributorship Agreement	8/21/1997	
PX 42	Letter from J. Daly to N. Fridman, enclosing two original Distributorship Agreements - "Please sign both originals"	9/9/1997	
PX 43	Letter from J. Daly to N. Fridman, enclosing payment schedule	9/9/1997	
PX 44	Letter from J. Daly to N. Fridman, RE: Distributorship Agreement - Annex A	9/18/1997	
PX 45	Distributorship Agreement - January, 1998	1/1/1998	
PX 46	Distributorship Agreement - January, 1998	1/1/1998	
PX 47	FAX from N. Fridman to J. Schafrann enclosing OEM Agreement (bates stamped JHS 118-126	6/25/2002	
PX 48	SAG SEC Filing of September, 1997	9/26/1997	
PX 49	Letter from A. Berkowitz to J. Toole RE: the outstanding amount of \$75,000	2/19/1993	
PX 50	Letter from A. Berkowitz to R. Swaim, RE: Report for 95Q3 and Q4	2/13/1996	
PX 51	Chart of software products sold by country - 2005	2005	
PX 52	Chart of software products sold by country - 2006	2006	
PX 53	Chart of software products sold by country - 2007	2007	
PX 54	FAX from P. Kuperman to P. Schnell RE:	5/7/1991	Hearsay, Relevance

Ex. #	Description	Date	Objection
	Brazil		
PX 55	FAX from P. Kuperman to P. Schnell RE: Consist, Brazil	8/30/1991	Hearsay, Relevance
PX 56	Draft Distributorship Agreement	9/1991	Hearsay, Relevance
PX 57	FAX from P. Kuperman to P. Schnell RE: changes to draft of Distributorship Agreement	9/12/1991	Hearsay, Relevance
PX 58	FAX from P. Kuperman to P. Schnell RE: comments on Distributorship Agreement	11/15/1991	Hearsay, Relevance
PX 59	Letter from P. Schnell to N. Fridman Enclosing "the result of our discussions about the distributorship in the form of a new distributor agreement"	11/18/1991	
PX 60	FAX from P. Schnell to P. Kuperman RE: "the result of our discussions about the distributorship in the form of a new distributor agreement"	11/18/1991	Hearsay, Relevance
PX 61	CONSIST Worldwide Customer List	2/11/1992	Hearsay, Relevance
PX 62	Letter from N. Fridman to M. King RE: "there are no grounds for termination"	9/5/1994	
PX 63	Letter from M. King to N. Fridman RE: "analysis showing missing or incomplete information"	9/7/1994	
PX 64	Letter from King to N. Fridman enclosing memo from Kuperman reflecting "what we agreed upon during our meeting"	12/1/1994	
PX 65	Draft Distributorship Agreement with cover letter from Phillipe to N. Fridman	12/12/1994	
PX 66	FAX from N. Fridman to J. Daly of Distributorship Agreement dated January 1995	1/19/1995	
PX 67	Draft Distributorship Agreement with handwritten notes and cover letter from P. Kuperman to N. Fridman	1/1/1995	Hearsay, Relevance
PX 68	Letter from M. King to N. Fridman RE: Amendment to Distributorship Agreement	2/1/1995	
PX 69	Draft Distributorship Agreement	2/7/1995	Hearsay, Relevance

Ex. #	Description	Date	Objection
PX 70	Letter from M. King to N. Fridman enclosing Revised Agreement	2/16/1995	Hearsay, Relevance (only last page - SAG 004879)
PX 71	Letter from M. King to N. Fridman RE: Payments Made in 1995	2/24/1995	Hearsay, Relevance
PX 72	Letter from J. Daly to N. Fridman enclosing New Distributorship Agreement	2/24/1995	Hearsay, Relevance
PX 73	Notes to Changes/Additions to Distributorship Agreement	1995	Hearsay, Relevance, Authentication
PX 74	FAX from M. King to N. Fridman RE: Amendment to Distributorship Agreement	2/1/1995	
PX 75	Letter from D. Riddick to Whom It May Concern in Uruguay RE: "In the event CONSIST is unable to provide you with the necessary technical support, SAG stands ready to provide it"	2/27/1997	Hearsay, Relevance
PX 76	Letters from J. Daly to be distributed to customers in South America "Dear Affiliate Country Manager...Announcing the new ownership structure of SAG Americas"	4/1/1997	Hearsay, Relevance
PX 77	Letter from SAG to Whom It May Concern in Argentina, Uruguay, and Chile: "In the event CONSIST is unable to provide you with the necessary technical support, SAG stands ready to provide it"	6/24/1997	Hearsay, Relevance
PX 78	Letter from J. Daly to N. Fridman Attaching Proposal for New Consist Distributorship Agreement	8/4/1997	
PX 79	Letter from N. Rothberg to N. Fridman RE: "replacing the remaining Tax Receipts with Cash Payments over the next two years"	8/12/1997	
PX 80	FAX from J. Daly to N. Fridman attaching Distributorship Agreement	8/21/1997	
PX 81	Letter from J. Lucca to N. Fridman RE: New Royalty Payment Schedule	12/21/1998	Hearsay, Relevance
PX 82	Email from L. Kibblewhite RE: "the possibility of Consist purchasing SAGA's	None	Hearsay, Relevance

Ex. #	Description	Date	Objection
	Electronic Documentation on CD"		
PX 83	PowerPoint Slide RE: SAGA "Objectives: Sell SAGA's products to current affiliates (excluding Consist)"	None	Hearsay, Relevance
PX 84	Letter from J. Lucca to N. Fridman RE: ISG product line	2/17/2000	Hearsay, Relevance
PX 85	Email from P. Marx to T. Williams RE: SAGA/ISG	7/6/2000	Hearsay, Relevance
PX 86	Email from L. Kibblewhite to N. Fridman RE: "confirmation of distribution numbers involving the Verity product with SAGA's electronic documentation"	1/4/2001	Hearsay, Relevance
PX 87	Email from O. Blanco-alcala to L. Kibblewhite RE: Electronic CD and Consist	1/24/2001	Hearsay, Relevance
PX 88	Letter from K. Butler to Whom It May Concern confirming that SAG has "an exclusive right in Argentina, Bolivia, Brazil, Chile, Paraguay, Peru and Uruguay to distribute and service SAG product lines"	8/19/2004	Hearsay, Relevance
PX 89	Letter from H. Mayo to N. Fridman RE: Annual Royalty for Distributorship Agreement	4/18/2005	Hearsay, Relevance
PX 90	Chart: Exceptions to Product Distribution for Latin American Affiliates	10/25/2005	
PX 91	Email from L. Kibblewhite to G. Fandino et al. RE: Online Webshop: restricted number of countries	11/3/2005	Hearsay, Relevance
PX 92	Product List	9/14/2007	Hearsay, Relevance
PX 93	Press Release: Software AG expands in high-growth Latin America	5/19/2006	Hearsay, Relevance, Authentication
PX 94	Email from K. Streibich to N. Fridman enclosing SAG Position Paper RE: Brazil Future	4/19/2007	Hearsay, Relevance, Authentication
PX 95	FAX from P. Kuperman to P. Schnell, RE: Requests for changes in Distributorship Agreement	9/12/1991	Hearsay, Relevance

Ex. #	Description	Date	Objection
PX 96	FAX from T. Williams to N. Fridman, RE: paragraph 5, clause 11 of the contract dated 9 September 1997	8/10/2000	
PX 97	Trend Analysis for Business Operations in Latin America - <i>Lagniappe Quarterly Monitor</i>	1/31/1997	Hearsay, Relevance, Authentication
PX 98	"The New Brazil, Investing Successfully in Latin America's largest economy" – <i>Latin Trade</i>	12/1996	Hearsay, Relevance, Authentication
PX 99	Memorandum from P. Kuperman to P. Schnell, RE: "some recommendations as to how we could stir our relationship with PACS"	9/30/1992	Hearsay, Relevance, Authentication
PX 100	SAG 2007 Third Quarter Financial Report	2007	Hearsay, Relevance, Authentication
PX 101	Consist Territory Analysis	1/1993	Hearsay, Relevance, Authentication
PX 102	Draft Distributorship Agreement	2/2/1975	Hearsay, Relevance
PX 103	Distributorship Agreement	9/16/1991	Hearsay, Relevance
PX 104	Distributorship Agreement	9/16/1991	Hearsay, Relevance
PX 105	Distributorship Agreement	7/1/1980	Hearsay, Relevance
PX 106	Distributorship Agreement	7/1/1980	Hearsay, Relevance
PX 107	Distributorship Agreement	2/10/1975	Hearsay, Relevance
PX 108	Distributorship Agreement	2/10/1975	Hearsay, Relevance
PX 109	Distributorship Agreement	1975	Hearsay, Relevance
PX 110	Amendment to Distributorship Agreement	7/22/1976	Hearsay, Relevance
PX 111	Distributorship Agreement	2/10/1975	Hearsay, Relevance
PX 112	Distributorship Agreement	1975	Hearsay, Relevance
PX 113	Distributorship Agreement	7/1/1980	Hearsay, Relevance
PX 114	Distributorship Agreement	7/1/1980	Hearsay, Relevance
PX 115	Distributorship Agreement	12/12/1984	Hearsay, Relevance
PX 116	Charts Excerpted from <i>Digital Planet 2006</i>	2006	Hearsay, Relevance, Authentication
PX 117	Email from K. Streibich to N. Fridman, RE: Software AG position paper Brasil	4/19/2007	



Ex. #	Description	Date	Objection
	future – personal and confidential		
PX 118	Letter to N. Fridman from Software AG	None	
PX 119	Consist "Executive Visit"	5/20/2005	
PX 120	Consist Territory Analysis	1/1993	
PX 121	Excerpts from <i>Digital Planet 2006</i>	5/2006	
PX 122	Email from C. Barrios to N. Fridman RE: Our partnership	4/11/2006	
PX 123	Letter from T. Williams to N. Fridman	8/10/2000	
PX 124	Letter from J. Jacobs to H. Schaffer	10/9/2007	
PX 125	Letter from J. Jacobs to H. Schaffer	10/10/2007	
PX 126	Exceptions to Product Distribution for Latin American Affiliates	10/25/2005	
PX 127	Email from C. Barrios to N. Fridman, RE: Special Products	5/11/2006	
PX 128	Email from K. Streibich to N. Fridman, RE: Text for email	7/19/2006	
PX 129	Letter from J. Jacobs to H. Schaffer, RE: Consist v. Software AG	11/6/2007	
PX 130	Email from S. Smith to N. Fridman, RE: Urgent request (from Consist)	10/31/2007	
PX 131	<i>Digital Planet 2006</i> Excerpts	2006	
PX 132	Email from B. Damiano to J. Jacobs re: Special Products List	11/20/2007	Hearsay, Relevance, Authentication
PX 133	Consist Argentina Website	2007	Hearsay, Relevance, Authentication
PX 134	Consist Bolivia Website	2007	Hearsay, Relevance, Authentication
PX 135	Consist Brazil Website	2007	Hearsay, Relevance, Authentication
PX 136	Consist Chile Website	2007	Hearsay, Relevance, Authentication
PX 137	Consist Paraguay Website	2007	Hearsay, Relevance, Authentication
PX 138	Consist Peru Website	2007	Hearsay, Relevance, Authentication

<b>Ex. #</b>	<b>Description</b>	<b>Date</b>	<b>Objection</b>
PX 139	Consist Uruguay Website	2007	Hearsay, Relevance, Authentication
PX 140	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 141	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 142	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 143	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 144	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 145	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 146	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 147	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 148	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 149	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 150	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 151	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 152	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 153	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 154	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 155	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 156	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication

Ex. #	Description	Date	Objection
PX 157	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 158	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 159	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 160	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 161	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication
PX 162	Consist Marketing Materials re: Exclusive Territory	N/A	Hearsay, Relevance, Authentication

Dated: New York, New York  
December 3, 2007

BAKER & McKENZIE LLP

By: /s/ James David Jacobs

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